

LOCAL GOVERNMENT

by David Hinds

Wisconsin's lake management organizations must understand and cooperate with local governments in their area if they are to be successful in achieving their purposes. Districts and associations cannot operate effectively for long without close, healthy relationships with these other units of local government.

TYPES OF LOCAL GOVERNMENTS

Lake management districts are considered a form of local government in Wisconsin. They are enabled under state law, elect a governing body and levy taxes. Because they have one major purpose—the management of lakes—they are considered **special purpose** governments. Other special purpose governments, such as sanitary districts, are also permitted under state law. School districts, although special purpose in nature, are usually considered separately, and not with other special purpose governments.

All land in the state is under the jurisdiction of either a town, a village or a city. Since all three function at the same level of government, an individual can live in only one of the three types at any given time. Lake management districts co-exist with these units of **general purpose government**, which have broader powers granted by state law. Wisconsin has a two-tiered system of local government. At the most local level are towns, the units of rural unincorporated government, and villages and cities, the incorporated units of local government. Cities and villages are often referred to as **municipal governments**.

Forming the upper tier of the local government system are the counties. Because counties are a different level of government, all land in the state is also under the jurisdiction of a county. All persons in the state live in a county, and also in either a town, village or city.

Towns are restricted to carrying out only those functions and exercising only those powers specifically authorized by state statute. A uniformity clause in the state constitution requires that towns each have the same basic form of government throughout the state. Villages and cities, as incorporated governments, may take on some additional functions at their discretion. Because the constitutional uniformity clause does not apply to municipal government, villages and cities have considerable leeway in their forms of government. The ability to take on additional powers and to choose alternative forms of government is referred to as having **home rule**. Wisconsin statutes do not permit towns to exercise home rule, though they are permitted to make some minor adjustments, such as increasing the size of the town board from three to four or five members.

In Wisconsin all lake management districts and all associations are located within the jurisdiction of county governments, and most are also within the jurisdiction of town

governments. Some districts can also be found either partly or totally within the jurisdiction of village or city governments.

COUNTIES

Counties were created by the state legislature as a convenient means for implementing state laws. They do not have broad home rule powers to act on the behalf of their residents, and, like towns, must limit their functions to those explicitly granted to them by the state. There are 72 counties in Wisconsin. They vary considerably in their population, area and the level of services they provide. Despite not having home rule, they have been permitted some leeway in selecting their basic form of government. Three basic forms are permitted:

- administrative coordinator;
- county administrator; and
- county executive.

Under all three forms of government, a county is governed by a board of supervisors whose members are chosen from single-member districts every two years (every four years in Milwaukee County) in non-partisan elections in even numbered years. The number of supervisors varies from county to county. Supervisors have both legislative roles and administrative roles in county government. In their first meeting following the election, supervisors elect one of their members as county board chairman, the various committees of the board are appointed at the same time.

Eight county officials are also elected: a clerk, treasurer, sheriff, district attorney, register of deeds, clerk of the circuit court, coroner and surveyor. These officials are elected for a two-year term of office, in **partisan** elections held in November. They are the only local government officials elected in Wisconsin under a political party label. Circuit court judges are also elected at the county level, and serve as county officials. Judges and district attorneys, though they are elected locally, now have their salaries paid by the state. In recent years some counties have replaced their coroners with a medical examiner, and some have eliminated the position of county surveyor.

The majority of counties use the administrative coordinator system of government. Under this system, the board of supervisors maintains a high degree of involvement in conducting administrative matters, mainly through its committees. One person is designated as the individual responsible for administration of the county government. Many counties select a county clerk for this role. Others have designated the chairman of the county board or have selected a business administrator to perform these duties.

Some counties have chosen the county administrator form of government, and have a full-time administrative officer, appointed by, and serving at the pleasure of, the county board.

A growing number of counties, generally the more populous and more urban, have chosen the county executive form of government. Under this system, administrative

functions are placed in a separate branch of government, the executive, who is elected by the people in a non-partisan election, for a four-year term of office.

The county executive has the power to appoint and remove county department heads and non-elected members of boards and commissions (with confirmation by the board), supervise functions of the executive branch, and budgetary powers. Unlike county administrators who are appointed and have no veto power, county executives are elected and have veto power over board actions, including partial veto power over appropriations actions.

Counties are responsible for a number of government functions. They spend the most money for welfare and social services. Among other programs, counties administer the Aid to Families with Dependent Children (AFDC) program. Counties administer general public assistance, a program mainly supported by the property tax, for persons who do not qualify for AFDC benefits. Counties also provide medical care to people who do not have health insurance or are eligible under Medicaid.

Highways are the second most costly service provided by counties. Counties carry out a state function, maintaining and plowing U.S. and state highways, and build and maintain their own system of county trunk highways. Some counties also contract with cities, villages and towns to provide highway construction and maintenance services.

Other services provided by counties can include law enforcement (sheriff's office); hospitals and homes for the elderly and severely handicapped; health, mental health, and elderly programs; services for veterans; zoning and other land use regulation; land management; county parks and forests; airports; and landfills. In earlier days, counties had a broader function in education. They now limit their role to the University of Wisconsin County Extension office, supported with county funds. Additional funding and resources are provided by the U.S. Department of Agriculture and the State of Wisconsin, through the University of Wisconsin-Extension.

One county official who can be especially useful to lake management districts and lake associations is the **county land and water conservationist**. The land and water conservationist can assist lake organizations in a number of ways, including studies to define watersheds and information and advice on shoreline and other lake projects. The **UW-Extension Community Resource Development Agent** is another important resource person for lake management organizations. UW-Extension Agents, with assistance from UW-Extension lake management specialists, can provide educational programs on a variety of lake issues, as well as assistance in forming and operating districts.

Counties do not assess property for taxation purposes (with the exception of Kenosha County, which has county-wide assessment). Property is assessed and taxes are collected by cities, villages and towns. Counties get their revenue by prorating the taxes it levies among the municipalities and towns in the county.

TOWNS

An important distinction needs to be made between **towns** and **townships**. Townships in Wisconsin, as in other Midwestern states, are geographic survey units, established by the Northwest Ordinance of 1787. Townships are most often six square miles in size, and are divided into 36 sections. Sections can be further divided into quarter sections, quarter quarter sections, and so on. Townships are identified by a township and a range number, and are the basis for identifying rural land parcels. In Wisconsin, townships are not a form of local government. Towns are. Town government boundaries may or may not coincide with township lines.

Wisconsin towns differ from towns(ships) in surrounding Midwestern states. In most of these states, local government is a three-tiered system, with town(ships) forming a separate level of government between municipalities and counties. It is possible in Illinois, for example, to be a resident of a village, a township and a county at the same time. In these states, town(ships) generally carry out fewer functions than Wisconsin towns.

Another implication that towns function at the same level of government as villages and cities in Wisconsin is the effect of municipal annexation on towns. When a village or city annexes territory, it is at the expense of the territory and the tax base of a town, since land can only be a part of a village, a city or a town, but never more than one. Land may be annexed by adjacent municipalities with the consent of the municipal board and a majority of the voters in the territory proposed for annexation.

Based on the New England model, Wisconsin towns possess a unique feature not found in other forms of general purpose local government in the state, and not in towns in other Midwestern states. This feature, the **town meeting**, is one of the very few examples of direct democracy in general purpose government in the United States. The town meeting, where all electors in the town may attend, speak and vote, is endowed with certain powers which only the electors, and not the elected representatives, may exercise. State law requires that an **annual town meeting** be held each spring in April. Special meetings may be called during the year to deal with important issues which may arise. The electors adopt the town's budget and set the levy for the property tax each fall at a special meeting.

Towns carry out a number of functions, the most important one being the construction and maintenance of town roads. Other functions can include fire protection, ambulance service, ordinance and code enforcement (zoning, building, weeds, burning, holding tanks, etc., often collectively referred to as the town's "police powers"), and waste disposal. A number of towns provide limited law enforcement services and some operate boat landings. Towns sometimes carry out additional functions permitted by law. It is a good idea to check with your town government to find out which functions your town actually carries out.

To complicate matters somewhat, some towns, by vote of the electors at a town meeting, have chosen to adopt **village powers** for the town. Doing so means the town board may exercise the powers normally granted to village boards, except powers which clearly conflict with state statutes relating directly to towns and town boards. This can be somewhat confusing. The only way to determine which powers the town board may actually exercise is

to first look in Chapter 61 of the Statutes (the laws pertaining to villages) to see if a village may exercise a given power. If the statutes grant the power to villages, then it is necessary to look elsewhere in the statutes to determine if there is any other law which sets a different requirement or procedure for towns. If there are no such laws, then the town, if authorized to exercise village powers by the electors, may exercise the village powers, citing the appropriate statutes for villages as its authority. Generally, towns have adopted village powers in cases involving police powers (health, safety, welfare, public convenience), where the powers for village boards are more clearly established. Adopting village powers does not limit the power of the electors, nor does it constitute home rule or convert the town into a village.

For day-to-day operations, a town is governed by a town board of supervisors, comprised most commonly of three members: a town board chair (who is a supervisor) and two town supervisors. Some towns have chosen to add either one or two supervisors (the maximum is five supervisors). Three-person town boards are elected in non-partisan elections every two years, in the years ending in an odd number. Four- or five-member town boards have their members elected in alternating years, so the entire board is not elected at the same time.

MUNICIPAL GOVERNMENTS

Cities and villages, Wisconsin's municipalities, are incorporated units of local government. As such (and unlike towns), they perform designated functions and may take on functions not specifically designated in state statutes on their residents' behalf, at their discretion.

Municipalities are first formed by **incorporation**, which is accomplished by citizens petitioning a circuit court. Following approval by the court and the State of Wisconsin, a referendum is held for the persons affected. If a majority of the voters approve, and the proposed population is at least 150 in an area of one-half square mile, a village is formed.

Municipalities grow through **annexation**, where the village or city takes land from an unincorporated town (if approved by a circuit court, state review, and a referendum of the affected residents). The town losing the land does not have to approve the annexation. This taking of land, and its tax base often leads to conflict between towns and municipalities. Towns do not have the power to annex, nor can one municipality annex land from another. Conflict can also occur between residents of an area proposed for annexation, where some favor the action to gain municipal services, and others oppose it because it will usually mean higher taxes.

For a village to become a fourth class city it must have a population of at least 1000 and an area of at least one square mile. As a municipality grows over time it may become a city of the third class (10,000 population), second class city (39,000 population), or a first class city (150,000 population). The legal differences between cities of various classes is minor, and many cities have not taken the legal steps to upgrade their class, even though they have sufficient population.

If a municipality decides to disincorporate for any reason, the area covered by the village or city reverts back to once again become part of the town from which it was originally incorporated.

Relatively recently, Wisconsin has seen a number of its local governments entering into cooperative agreements for the joint provision of services of various types. These voluntary arrangements are generally made to increase the efficiency of the service and to save money. In other cases, municipalities have chosen to **privatize** a local government service. An example of this is a city contracting with a private business for waste collection and recycling.

Cities

Through home rule and state enabling statutes, cities may choose from four basic types of government. The state legislature has limited the concept of home rule by passing specific laws covering a number of functions. Traditionally, though, the legislature has allowed choice for cities in their basic form of government. The four basic forms from which cities may choose are: weak mayor, strong mayor, city manager, and commission. At the present time no Wisconsin cities have the commission form of government. Under home rule, specific powers of the mayor are determined by the individual city.

Cities are governed legislatively by a common council (except under the commission form of government). Under home rule, cities may determine the number of council members and the term of office. They may decide to elect city council members either at large or from districts, or a mixture of the two. Mayors have veto powers over actions of the common council. Cities can decide whether to elect or appoint officers such as clerk, treasurer or assessor. All municipal elections are non-partisan elections, held in April.

Cities provide the widest variety of services for residents, including fire protection, police, water and sewer, streets (construction, maintenance, plowing), parks and assessment and collection of property taxes. Many cities provide additional services for their residents, which might include public housing, health, economic development and many others. The number and level of services varies widely among Wisconsin cities.

Villages

In most respects villages differ very little from cities. Both may provide the same wide range of services for residents and exercise considerable leeway in their form of government. Rather than a mayor and common council, however, villages elect a village president and board of trustees. Their roles, though, are essentially the same, except that village presidents do not have veto power over actions of the village board. Many larger villages have an appointed village administrator, who runs the day-to-day operations of the village.

Special Districts

Over 300 special districts are in operation in Wisconsin. Few of us are fully aware of their existence and functions. Special districts, which are also units of local government, are created to deal with narrowly-defined special functions or services, normally those not provided by general purpose local government. They exist as sanitary districts, sewer districts, water districts, drainage districts, community development authorities, business improvement districts, and, of course, lake management (or rehabilitation or protection) districts.

Special district boundaries may or may not be the same as other local government boundaries in a given area. Some districts cover only a part of a municipality or town. Other districts take in more than one local government in the territory they cover. They have the power to levy taxes, charge fees and borrow money. Methods for selecting officials for special districts vary considerably, depending on the type of district. Lake management districts are covered in detail in other sections of this handbook.

LAKE MANAGEMENT ORGANIZATIONS AND LOCAL GOVERNMENT

INTER-GOVERNMENTAL RELATIONS

Wisconsin's lake management organizations need to understand and cooperate with local governments in their area if they are to be successful in achieving their purposes. Organizations cannot operate effectively for long without close, healthy relationships with these other units of local government.

At the broadest level, district commissioners and association officers can do a number of things to foster understanding, cooperation and good relations between their district and other local governments in the area:

- Understand that residents and property owners are served (and taxed) by a number of local government units. Lake management districts are one of these governmental units. District residents and property owners need to be educated regarding which government provides which services. Commissioners need to give special attention to non-resident property owners, whose only contact and real communication with local government is often with the lake management district. Relations between district electors and school districts sometimes can be difficult, especially when the electors are non-residents or retired people who receive essentially no direct services from the schools, yet are paying school district taxes. (Some lake management districts hold their meetings in local schools to gain some benefit and improve relations and understanding.)

- Maintain awareness of important area issues and how local governments are dealing with them. Local newspapers are often the best source for following local government affairs. It is also important to meet and get to know other local officials, and to periodically attend town, village or city and county government meetings.
- Keep local governments aware of lake management district issues and activities. Local governments can sometimes be less responsive to the needs of a district, especially if a significant proportion of the property owners in the district are not local residents and do not vote in municipal or town elections. Indeed, this lack of communication and responsiveness has played a role in the formation of a number of lake management districts.
- Organize and offer volunteer help to assist local clerks when they must do significant extra work on behalf of your district, such as documenting district boundaries and compiling information from tax rolls and other sources. Lake management districts normally handle activities such as sending out meeting notices, conducting district elections, etc., but local clerks can be very helpful in some things, such as insuring compliance with the Wisconsin Open Meetings and Open Records Laws and providing advice.
- Cooperate with town, village or city officials in planning and maintaining facilities and improving the services they provide which directly benefit lake management district residents. Examples include roads, fire and police protection, parks and boat launches, water and sewer, and waste collection.
- If your lake district has self-governance, and you are a commissioner who was appointed rather than elected, report regularly back to the governmental body that appointed you. Reports should include a summary of lake district activities, summaries of studies and surveys, progress on projects, budget information and other important matters.

District Revenues and Local Government

Lake management districts need to cooperate with other local governments to raise revenue necessary to operate the district. There are several important ways to directly involve other local governments in collecting or providing money for the district.

General Property Tax (Mill Levy)

A lake management district is authorized by state statutes to levy a tax on all taxable property in the district for the cost of operating the district during the coming year. The property tax must be authorized by a vote of the district's electors at the annual meeting. The tax may not exceed 2.5 mills of equalized valuation, and must be uniformly applied across the district. Public property—property owned by municipalities, towns, counties, and the state and federal governments—is not subject to the property tax.

Although lake management districts are allowed to levy a property tax, districts are not responsible for collecting it. In Wisconsin, cities, villages and towns are responsible for

assessing property and collecting property taxes. They collect the taxes they themselves levy, and taxes levied by county government, local and technical school districts and other special districts, including lake management districts. If the lake management district is made up of land under the jurisdiction of more than one town, village or city, the tax for the district will be collected by each of the general local governments involved.

Each year, following the approval of the budget and a tax by the lake management district's annual meeting, the district treasurer must certify and deliver a report containing the amount of the tax to the clerk of each municipality in the district. This must be done by the last work day of October. The town, village or city will then place the lake management district's tax as a separate item on the tax bills which are sent to property owners. Lake management district taxes collected by the town, village or city are sent to the district early each year, soon after the collection deadline.

User Charges

User charges are special charges made to individual properties for services with temporary benefits. User fees are often charged for services such as aquatic weed harvesting and garbage collection. Fees can vary from one property to another in the district, depending on the benefit or service received. User charges can be used alone, or in combination with property tax money to pay for services.

Lake management districts are responsible for collecting user fees, and normally do this by direct billing to individual properties. However, once user charges become delinquent, they can be entered on the tax roll, which will involve working closely with town, village or city clerks.

Although individual properties owned by local governments can be subject to lake management district user fees, such fees are seldom charged. In cases where government-owned properties are clearly the beneficiaries of services or benefits provided by the district charges may be considered.

Special Assessments

Special assessments are usually used by lake management districts to raise money for major projects. Commissioners determine the amount to be assessed to each property by first subtracting any outside funding for an approved project from the total project cost. The balance, or local share, is the amount that is to be raised through special assessment. They then determine the benefits or increase in value that will accrue to each property involved in the project and assess each property a proportionate share of the local costs of the project. Size of the property, proximity to the lake, and present and potential use of the land (including zoning and other factors) may all be considered by commissioners in determining how the assessments will be made. Assessments may be paid by property owners in up to 10 annual installments.

Property owned by counties, municipalities, and towns, and other tax-exempt property is subject to special assessment. State-owned property may only be assessed when approved by the Public Lands Commission.

As is the case with user fees, commissioners are responsible for notifying property owners and collecting special assessments.

Lake Management Districts Without Self-Governance

In much of this section the need for coordination and cooperation between lake management districts and local governments has been stressed. There are circumstances, however, when **separation** between the functions of the lake management district and those of municipalities or towns needs emphasis.

Lake management districts which have been created either by a town board, village board or city council are often created without also adopting self-governance (where three of the five district commissioners are elected by residents and property owners). In non-self-governing districts, the members of the governing body of the local government (town, village or city) that created the district serve as the commissioners for the district.

For town or village board members or city council members who also serve as a lake management district commissioners, there are a number of important things to keep in mind in carrying out the duties of a lake management district commissioner:

- The lake management district is a corporate body under Wisconsin Statutes, separate and distinct from the village or city corporation or the town government.
- Lake management district operations are governed by Chapter 33, "Inland Public Waters," of Wisconsin Statutes. Requirements under this chapter differ considerably from those for other local governments found in other chapters of the statutes. Lake management district meetings, decisions, and operations must be conducted in accordance with Chapter 33, even though the district's commissioners are also town or village board members or city council members.
- Like other local governments, lake management districts must operate in compliance with the Wisconsin Open Meetings Law and the Wisconsin Open Records Law. Meetings must be announced properly and held in open session, unless certain business qualifies as a legitimate reason for being conducted in closed session.
- Commissioners need to watch that, over time, lake district commission meetings do not become "just another town, village or city committee meeting." It is easy to forget that the lake management district is an entirely separate corporation, governed by different state laws. Similarly, commissioners must exercise caution to not violate the Open Meetings Law by discussing or conducting lake management district business during town or village board or city council meetings.

- The lake management district has a form of government which differs considerably from village or city government. (In its basic form, lake district government is similar in a number of respects, but not identical to, town government.)

One important difference is the annual meeting. Nothing comparable exists in village and city government. The annual meeting is not just a gathering of residents and property owners of the district. Nor is it a meeting of the commissioners at which the electors are present. The annual meeting is, itself, a body politic, comprised of all the electors of the district who are present, presided over by the chairman of the district. The annual meeting has specific powers granted to it by state statutes—powers which the commissioners do not have. At the annual meeting the commissioners are not in session, and do not discuss items or vote as a commission. Powers of the annual meeting include approval of the budget for the coming year and the revenue sources for the budget; individual approval or disapproval of each proposed project costing the district over \$10,000 (the annual meeting may authorize the commissioners to approve projects for over \$10,000 during the coming year, until the next annual meeting); and consideration of other business.

Special meetings (of the electors) may be held at any time during the year, and have the same powers as annual meetings, except that they may not approve an annual budget, dissolve the district, or reconsider a decision made at another special meeting since the last annual meeting.

Since the annual meeting and special meetings are granted these powers by state statutes, it follows that neither the commissioners, nor a town, a village board or a city council may later overturn or amend decisions made there by the electors. Only the electors, at an annual meeting, may change their decisions.

- Lake management districts can be guided by **by-laws**, which are rules adopted by the annual meeting, governing the definition of electors, voting, conduct of hearings and meetings, committees, how budgets, taxes, and projects are approved, and other matters important to the functioning of the district.
- District commissioners are required by state statutes to meet, as a commission, a minimum of four times per year. At these meetings commissioners may exercise the powers granted specifically to them by Chapter 33.
- Revenues, including the property tax levy are determined separately from village, city, or town revenues and are listed separately on the tax bill. There should be no co-mingling of district and municipal or town funds at any time. However, this does not prevent, say, a town and a district from jointly funding a project, nor a village from providing a grant to a district to do a survey.

"Of the people, for the people, and by the people..." That is how government works. Lake organizations and local governments working together and building partnerships plays a vital role in preserving and protecting Wisconsin lakes.

REFERENCES

- Klessig, Lowell L. and Robert M. Korth. 1990. A Guide to Wisconsin's Lake Management Law, Eighth Edition. University of Wisconsin-Extension, Stevens Point.
- Miller, Edward J. and Brett Hawkins. 1991. "Local Government." In Crane, Wilder, A. Clarke Hagensick and Colleagues, Wisconsin Government and Politics, Fifth Edition. Department of Political Science, College of Letters and Sciences, University of Wisconsin-Milwaukee.
- Wisconsin Legislative Reference Bureau. 1991. State of Wisconsin Blue Book, 1991-1992. Madison, WI.
- Wisconsin, State of. Wisconsin Statutes, Chapters 33, 59, 60, 61, 62, and 64.